GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Revision Petition along with stay petition filed by Smt Peedisetty Sastyavathi, W/o.Veerabararao, R/o. Gadelapalem Village, Gokavaram (M), East Godavari District before the Government against the Orders of the Additional Agent to Government and Project Officer, ITDA, Rampachodavaram, East Godavari District in CMA No.08 of 2011, dt.31.10.2013 in respect of Schedule land in in Sy.No.478/1- to an extent of Hec.1.04 of Indukuru (V) Devipatnam (M) East Godavari District - Dismissed- Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.Ms.No.81 Dated:23.06.2016

Read the following:

1. Revision Petition filed by Smt Peedisetty Sastyavathi, W/o.Veerabararao, R/o. Gadelapalem Village, Gokavaram (M), East Godavari District dated:21.12.2013.
2. Govt.Memo.No.14422/LTR-2/2013, dt.05.02.2014.
3. From the Additional Agent to Government, Rampachodavaram, East Godavari District CMA No.08 of 2011, dt.10.09.2014.
4. Govt.Lr.No.14422/LTR-2/2013, dt.30.03.2016

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ORDER:-

In the reference first read above, Smt Peedisetty Sastyavathi, W/o.Veerabararao, R/o. Gadelapalem Village, Gokavaram (M), East Godavari District has filed a Revision Petition before the Government U/s. 3(1)(a) of APSALTR 1959 r/w 1/70 against the Orders of the Additional Agent to Government and Project Officer, ITDA, Rampachodavaram, East Godavari District in CMA No.08 of 2011, dt.31.10.2013 in respect of Schedule land in in Sy.No.478/1- to an extent of Hec.1.04 of Indukuru (V) Devipatnam (M) East Godavari District.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Additional Agent to Government Rampachodavaram, East Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4.The facts of the case are as follows:

a. The revision petitioner was in possession and enjoyment of the petition scheduled land mentioned above and she is a Non-Tribe.

b. The petitioner states that she is the Grand daughter of Kommili Kondaya who purchased scheduled land on 16.06.2012 from another Non-Tribe under registered sale deed and the father of appellant Kommili Achayya gave the scheduled land to her share of property, that previously her father and prior there to her ancestors and there is no prohibited transfer.

c. Contrary to the above claim of appellant the order of Additional Agent to Government in CMA No.8/11 is that the Non-Tribe/Appellant did not produce any record to substantiate the fact that the schedule property was purchased and continuously in possession of the appellant and her ancestors from time to time. The petition schedule

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property is recorded as assessed wet of Government. In LTR 133/2007 the Special Deputy Collector, Tribal Welfare also found during his enquiry that the Petition Schedule Property was recorded as assessed wet / Gayyalu. Non-Tribal is not entitled for any assignment.

d. Now the point for consideration is whether the order of dismissal of appeal passed by Additional Agent to Government confirming the order of ejectment of revision petitioner/Non-Tribe as passed in LTR 133/2007 is valid under Law or liable to be interfered with.

e. The Government having gone through the orders of both the authorities below, gave ample opportunity to the revision petitioner to produce any record for substantiation of her claim over the petition schedule property.

f. The Government in Principle is receiving any documentary evidence from either of the parties on any date of hearing, in order to ensure that Principles of Natural Justice are strictly followed and that justice shall be rendered to the parties at any cost according to Law. In the case on hand even though on behalf of the revision petitioner written arguments are filed on 09.04.2016 no copy of the registered sale deed is filed. Similarly no material is filed to prove that the petitioner is in possession of the subject land having inherited the same from her ancestors since 1912 till this day.

g. The consistent stand of the authorities below is that the subject land is recorded as assessed wet/gayyalu of Government and that there was no assignment made in favour of anybody much less the petitioner or any of her ancestors.

h. The Hon'ble High Court has held that the land in agency areas shall be presumed to have been acquired by a Non-Tribe in violation of regulation 1 of 59 as amended by regulation 1 of 70, if the party fails to prove right and title over the said land.

i. If the claim of petitioner regarding possession for long time were true nothing prevents her from getting either settlement patta or assignment in respect of subject land by approaching the authorities concerned as per Law.

j. The Hon'ble Supreme Court in AIR 1997 page 3297 has held that the Government permitting the transfer of its land situated in schedule area to Non-Tribes is against the provisions of regulation 1 of 59 as amended by regulation 1 of 70.

k. There is a presumption under section 3 of regulation 1 of 59 that a land in possession of a Non-Tribe shall be presumed to have been acquired by him in violation of the said regulation unless and until he proves that it was purchased/acquired validly.

l. Any alienation shall be null and void unless it is made in favour of a tribe and the said principle has overriding effect not withstanding anything in any enactment or rule of law;

m. The purport of the said regulation and the judgments of Hon'ble High Court and Supreme Court rendered on the said regulation are to the affect that a non-tribe cannot be permitted to possess/enjoy the immovable property in agency area unless the same is in accordance with the provisions of the land transfer regulation and other allied agency laws such as APSA Rytwari settlement regulation etc.

n. On having gone through the entire record including the orders passed by learned Special Deputy Collector and Additional Agent to Government, the government is of considered view that there is no irregularity or illegality in the order impugned. The revision petitioner admittedly, is a non-tribal who failed to establish right and title over the Petition Schedule Property. The Hon'ble High Court of Andhra Pradesh also held that the land of Government in possession of non-tribal must be said to be acquired illegally,

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when examined, with in the meaning of section 2g read with section 3(1)(a) of LT regulation 1 of 59 as amended by regulation 1 of 70, as per its decision reported in 2007 (6) Andhra legal decisions page 292 in terms of the said judgment such non-tribe is not entitled to continue in possession and hence the order of ejectment is perfectly valid.

o. Finally the Government is of considered view that the above revision petition is devoid of any merits, the contents of the written arguments filed by the counsel for the appellant are not acceptable as there is no basis for the claim of the revision petitioner regarding the acquisition of right and title under a document dt.16.06.1912 in the name of K.Kondaya in the absence of documentary evidence no credence can be given to such contentions.

p. The Hon'ble High Court of Andhra Pradesh in W.P.20160/2014, in a writ petition filed by the revision petitioner, by its order dated 21.07.2014 directed to dispose of the revision petition within four weeks or atleast the interim application there in and directed to maintain status quo.

q. In obedience to said orders, efforts were made to dispose of the same but for various reasons the same could not be disposed of within 4 weeks.

r. The above Revision Petition was finally heard at length at camp court of Government at Eluru on 09.04.2016, the counsel for appellant having argued also filed written arguments and pleaded for allowing the said revision. But the Revision Petitioner does not have right or title over the subject land. The orders passed by both the authorities below, do not warrant any interference.

s. In the result the revision petition is dismissed as it is without any merit. Consequently the Special Deputy Collector, Tribal Welfare is directed to eject the revision petitioner from petition schedule property and grant assignment of the said land to eligible tribe/tribes as per Law.

5. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

6. The original record bearing CMA No.8/2011 received from the O/o. the Project Officer, ITDA, Rampachodavaram, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, (Tribal Welfare) Rampachodavaram, East Godavari District.
Copy to:
Sri Kola Satyaprasad, Advocate, ITDA, Legal Aid Cell Members Rampachodavaram – 533 288, East Godavari District.
Smt Peedisetty Sastyavathi, W/o.Veerabararao, R/o. Gadelapalem Village, Gokavaram (M), East Godavari District
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER